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SIPDIS

SENSITIVE

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SUBJECT: JUDICIARY REFORM ON THE FRONT BURNER, AND THE KITCHEN IS HOT

¶1. (U) Portions of this text are sensitive but unclassified.
Please protect accordingly.

SUMMARY AND COMMENT

¶2. (SBU) A major human rights seminar presently held in Algiers in early July, coming on the heels of a highly publicized visit by Human Rights Watch, has served as a catalyst for wide-spread discussions on human rights, especially with respect to judicial reform. The Algerian Government's human rights ombudsman, Farouk Ksentini, called for suspending the jail sentences of journalists convicted of defamation and criticized excessive recourse to pre-trial detention. The Algerian media have widely reported his remarks and the actions being taken against judicial corruption. Approximately 20 judges are under investigation, and Members of Parliament say it is unsurprising that members of the poorly paid Judiciary seek to supplement their incomes. The Minister of Justice has been unequivocal in publicly calling on judges to fight corruption and ensure that no one is above the law. In our view, the prominent press coverage of judicial reform underscores GOA resolve to clean up the judiciary and enhance the rule of law in Algeria. The comments of the Minister of Justice leave little doubt that judicial reform is a priority for the GOA. Public discussion and criticism of shortcomings in the justice system is positive, and the Justice Minister's rhetoric clearly signals the government's recognition -- at least in word -- that judicial reform must be a high priority. (End summary and comment.)

HUMAN RIGHTS IN FOCUS

¶3. (U) The National Consultative Commission for the Promotion and Protection of Human Rights (CNCPDH in French) sponsored a seminar the first week in July at the Hilton Hotel in Algiers entitled, "Human Rights in Algeria, Status and Perspectives." The seminar examined the policy goals of President Bouteflika and the policy papers and statements on human rights that the Government of Algeria presents at international venues. It also focused on the legislative and regulatory environment for human rights in Algeria, as well as the Commission's role in promoting human rights on the national scene. In addition to addressing these broad themes, the seminar presented workshops on the family and familial status; justice and human rights; and economic, social, educational, and cultural rights. More than 250 participants attended from government ministries, universities, associations, and the press.

¶4. (U) The head of the Commission, Farouk Ksentini, made critical remarks on the opening day of the seminar that were widely disseminated in the press. On the jailing of journalists accused of defamation, Ksentini said, "jail terms for journalists are excessive" and that "suspended sentences" would be a more appropriate sanction. On the issue of pre-trial confinement, he suggested exercising this option only for serious crimes and not mere infractions of the law. In response to recent criticism of the idea of a general amnesty by Amnesty International and Human Rights Watch, Ksentini said that general amnesty for the perpetrators of crimes during Algeria's time of terrorism "is not incompatible with human rights." Ksentini was also quoted by the press as saying that Algerian justice suffered from the incompetence of some judges and that Algeria is an "emerging" rule-of-law country.

JUDICIAL CORRUPTION IN THE MEDIA SPOTLIGHT

¶5. (U) Against the backdrop of the seminar, judiciary reform and the respect for rule of law are receiving broad press coverage. In particular, the media are widely reporting actions taken against corrupt judges. According to the Superior Council of Magistrates, "twenty or so judges" are under investigation for having committed "disciplinary mistakes," sometimes serious in nature. Members of Parliament quoted in the press noted that the Legislative and Executive Branches of Government establish their own budgets, while the Ministry of Finance determines the budget of the

Judiciary. These Members of Parliament argued it is therefore not surprising that employees of the poorly paid Judiciary seek to supplement their incomes through malfeasance.

16. (U) The media debate has at times been bitter. The president of the National Union of Magistrates, Djamel Aidouni, last week accused Ksentini of "having twisted the reality of the Algerian judicial apparatus in statements delivered to the international NGOs (Human Rights Watch in particular)." Aidouni went on to say that "Human Rights Watch's statements ... reflected only the views of the lawyers ... (not the judges)." He called on President Bouteflika to "take steps against these persons (lawyers), especially the head of the CNCPDH (Ksentini)" and accused Human Rights Watch of lying: "Everything it said was false." Ksentini defended himself, saying the real injustice was "the illness of our justice (system), and I have the right to express myself as a jurist and as president of the CNCPDH." He remarked that Aidouni's role, "as a union member ... is basically to defend the profession (of judges), which has nothing to do with the law."

CAUSES OF CORRUPTION MUST BE ADDRESSED

17. (U) According to press reports, the president of the previous National Commission of Justice Reform, Mohand Issad, insisted that when "several institutions" are under fire for corrupt practices, "it is not surprising" that corrupt practices extend to the magistrates. "Today you have a job; tomorrow you are not sure to keep it," added Issad. The pressure that combating corruption has on magistrates is even more pronounced at the household level. "There are those who do not have homes and do as you would expect (resort to kickbacks) in order to obtain (housing)," continued Issad. He argued that, "Corruption is not material. It is also political, intellectual, and moral. It would be better to attack the causes of corruption than corruption itself" While the Inspector General of the Superior Council "does its job just as police officers and gendarmes do theirs ... you will never see corruption come to an end if the causes of corruption (low salaries) are not" addressed. Just as in medicine, "prevention is required," concluded Issad.

REFORM HAS SUPPORT FROM THE TOP

18. (U) Minister of Justice Belaiz, giving a public face to GOA efforts to reform the judiciary, asked a gathering of judiciary officials in Tamanrasset why they had not taken the necessary steps to reform. He made clear that "judges who ensure that everyone is under the law will be protected." The minister exhorted the officials "to fight corrupt, corrupting, and incompetent magistrates who abuse their authority." In an interesting aside, he also reminded judges that, beginning in September, knowing English and using computers would be obligatory. (Note: The Ministry of Justice intends to make judicial procedures more transparent. New computerized systems will make it easier both to track case files and build a body of consistent case law.) In the words of Ksentini, "It is difficult to verify a corrupt practice because it takes place between the protagonists, the corrupted and the corrupter. Cases of blatant crime are virtually non-existent."

ERDMAN